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January 25, 2005

ITEM 4

February 2, 2005 Workshop/Board Meeting

Hrd cys: Board, DI, DWQ

E-mail to: Bd, CC, KS, HMS, TH, etc.

By FACSMILE AND EMAIL

Ms. Debbie Irvin

Executive Office

Water Resources Control Board

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Sacramento, CA 95814

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Re: Comments on Proposed Revisions to State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California

Dear Ms. Irvin:

Heal the Bay submits the following comments on the State's proposed revisions contained to the State Policy for Implementation of Toxics Standards for Inland Surface Waters and Enclosed Bays and Estuaries (SIP). Heal the Bay has been actively involved with the formation of this plan for many years, including participation on the State Board's Effluent Dependent Water Bodies and Chemical task forces for the development of the Inland Surface Waters and Enclosed Bays and Estuaries plan. We also provided extensively recommendations on the SIP in 1997, 2002 and 2003.

Heal the Bay has commented extensively on the flaws in the existing SIP which result in failure to protect or improve water quality in California and we herein incorporate those comments by reference.¹ We remain concerned about these major flaws and confused as to the priorities for current revisions to the SIP. Previous comments by Heal the Bay and other groups have detailed our concerns that SIP is a disincentive for dischargers to achieve minimum levels (MLs) that are lower than CTR limits, that the SIP results in too few effluent limits in NPDES permits, and that the SIP does not regulate stormwater discharges, when in fact it should.

The State Board is requesting comments on the proposed revisions only. These revisions do not address the important issues we have raised in our previous, above-referenced comment letters; nonetheless Heal the Bay submits the following comments on the proposed revisions to the SIP.

1. Do Not Establish Water Effects Ratios as part of the permit process.

It is inappropriate to allow establishment of water effects ratios (WERs) as part of the permit process because WERs may substantially alter effluent limits for toxic pollutants discharged to receiving waters. A WER should only be applied if rigorous studies show that higher-than-CTR levels of a given toxic chemical are not harmful to the most sensitive aquatic species, and that cumulative effects of the higher levels will not have negative impacts on the

¹ See letters from Heal the Bay to the SWRCB on 17 December 1999, 21 February 2000, 8 December 2002 and 18 September 2003.